

DIVISION OF CEMETERIES

STATE OF NEW YORK
DEPARTMENT OF STATE
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CEMETERY BOARD

ROSSANA ROSADO
SECRETARY OF STATE
CHAIR

LETITIA JAMES
ATTORNEY GENERAL

DR. HOWARD A. ZUCKER
COMMISSIONER OF HEALTH

DRAFT

Cemetery Board Minutes April 13, 2021 Via WebEx

BOARD MEMBERS PRESENT:

Mark Pattison, Department of State, Chair
Jill Faber, Office of the New York Attorney General
Thomas Fuller, Department of Health

OTHER ATTENDEES:

Joshua Beams, Dep't of State
John Fatato, Dep't of State
Andrew Hickey, Division of Cemeteries
Antonio Milillo, Dep't of State, Counsel
Lewis Polishook, Division of Cemeteries
Michael Seelman, Division of Cemeteries
Brendon Stanton, Division of Cemeteries
Robert Vanderbles, Dep't of State
Alicia Young, Division of Cemeteries
Chris Cosco, Division of Cemeteries
Vince Gimondo, Division of Cemeteries

GUESTS:

David Fleming, NYSAC, FWC
Bruce Geiger, Bruce Geiger & Assocs. for Pinelawn Memorial Park
Richard Moylan, Green-Wood Cemetery
Justin Locke, Pinelawn MP
Jay Ivler, Lebanon Cemetery
Anthony Biolsi, Montefiore Cemetery
Adam Ginsberg, Cedar Grove Cemetery
Nate Ramagnola, White Haven Memorial Park
Ashton Matyi, Ostroff Associates
Kathleen Orlan
Eric Barna, Green Wood Cemetery
Brendan Boyle, NYSAC, FWC
Philip Tassi, Ferncliff Cemetery

Opening Remarks

Mr. Pattison gave an overview of how the meeting would proceed via WebEx.

Mr. Milillo explained that the meeting is operating pursuant to Executive Order 202.1, which suspends the requirement to appear in person. The notice was posted in accordance with law and notice, agenda, and materials have been posted on the Division of Cemeteries website.



**Department
of State**

We take attendance; lobbyists must identify themselves and the entity they represent; speakers shall identify themselves.

21-04-A-19 Minutes of Previous Meetings

Three separate motions were made, seconded, and unanimously adopted as submitted approving the minutes of the Board's meetings on the following dates:

February 9, 2021
February 26, 2021
March 9, 2021

21-04-B-20 Legislation and Regulations

1. Pending Legislation

Mr. Milillo reported on activity on pending legislation as follows:

The following bills, which were previously one-house bills, now are two-house bills

A.382 now has a companion in the Senate, S.5535. This bill would include natural organic reduction as a way to process remains and treats them as similar to cremation. The Assembly bill has advanced to third reading; the Senate bill has been referred to committee.

A.5098 now has a companion in the senate, S.5704. This bill would add a new section to the General Business Law to allow pet cemeteries to bury pet cremated remains for a fee if certain conditions are met. The Senate bill has been referred to committee.

There are several new bills:

A.6302/ S.4344. This bill would authorize a family member or close friend of a deceased veteran to request burial in a State veterans' cemetery. This bill has been referred to committee in both houses.

A.6649/ S.5972: This bill is a "Uniform Emergency Volunteer Health Practitioners Act," which several other states have adopted. This would allow health service workers from out of state to volunteer in time of emergency to provide services in New York, including funeral, cremation, cemetery, or other mortuary services without local licensure.

A.6740 (one house): This would amend the grandfather clause of the anti-combination law to allow the crematory to move within the same locality, regardless of whether the associated funeral home moves, so long as the local authority approves.

2. Rules and Regulations

Mr. Milillo reported that we have approval to circulate proposed regulations, which we will share with the board after the meeting, potentially for approval at the next meeting.

Mr. Pattison clarified that these regulations address abandonment.

21-04-C-21 Division Report

Division Director Lewis Polishook reported that:

1. The deadline for submitting annual reports for calendar year filers was March 31. We will grant a 30-day extension, no questions asked. Cemeteries must provide reasons for further extensions.
2. Southern Tier Memorial Cremation, No 07-065 (Chautauqua County): The board approved its retort replacement at the January 2021 meeting but asked for a report on compliance with the Not-for-Profit Corporation Law concerning unrelated issues. The crematory formerly shared employees with and rented space from a defunct casket company. The casket company has been dissolved, the crematory now employs its own staff, and the crematory has a new lease for its premises from a related party, which the crematory's independent directors have approved. Finally, the crematory's accountant asked that the crematory consider ways to improve segregation of duties; we anticipate further information about this by the end of April.

Mr. Milillo asked whether, with the changes that have occurred, the only flow of money to the other company is through the lease. Investigator Brendon Stanton indicated that this is correct, and that there are no other agreements or streams of payment.

Mr. Milillo also commented that the independent directors approved increasing the rent from \$2,000 to \$2,400, and stated that we did not have the documentation the independent directors relied on to determine the original lease was below market. Mr. Stanton stated that the crematory provided this documentation with the original application. Mr. Milillo also noted that the lease requires the tenant to pay real estate taxes; if the crematory owned the property it would not pay taxes. Mr. Milillo stated that the crematory's board should have discussed whether, inclusive of taxes, the crematory is paying fair value and whether purchasing a property would be more advantageous.

Assistant Director Alicia Young provided the quarterly delegated duties report:

1. We have received 64 new rate applications and approved 45;
2. We have received 18 new lot reclamation applications and processed 19;
3. We have received two applications for net appreciation on permanent maintenance funds; neither have been approved;
4. We have received nine new applications for approval of amendments to rules and regulations; five were approved;
5. We have received 1,001 new annual reports, of which 369 were submitted online, representing 37%

21-04-D-22 Vandalism, Abandonment and Monument Repair or Removal Fund Report

Assistant Director Alicia Young provided the vandalism report. So far in the 2021 calendar year the Division has collected \$485,323 in vandalism funds. Assessment collections total \$273,294. In the current fiscal year, we have collected \$53,498 and \$30,369.

Of the \$2 million appropriation for last calendar year:

1. \$196,750.92 has been paid on applications approved in the 2018-19 fiscal year;
2. \$550,411.31 was paid on applications approved in the 2019-20 fiscal year; and
3. \$885,434.34 was paid on applications approved in the 2020-21 fiscal year.

The total paid out of 2020-21 funds was \$1,632,496.

There remains \$114,187.28 unpaid in applications approved before the 2020-21 fiscal year and \$247,470.72 unpaid on applications from the 2020-21 fiscal year.

There are two applications before the Division requesting a total of \$42,435; neither are ready to be presented to the Board this month.

21-04-E-23 Nassau Cemetery Association a/k/a Nassau Knolls Cemetery, No. 30-006: Major Alteration (Mausoleum Expansion)

This cemetery seeks approval of an expansion of an existing mausoleum structure. Nassau Knolls successfully sells mausoleum space and needs to expand its crypt and niche capacity. It proposes to add outdoor crypts and niches to the outside walls. This work will not affect existing crypt owners but will be close to one particular grave, so the cemetery agreed to write to the last known address for that lot owner. There are no related party transactions related to this project.

Counsel noted that the project would be paid for with general funds. He asked for clarification as to the total cost of the project.

Mr. Polishook responded that the project had changed during development and that the higher estimate may also include landscaping and other collateral work. Mr. Polishook recommended approval in the higher amount of \$1,109,947, and will confirm with the cemetery that this is the current amount.

Motion made, seconded, and unanimously adopted approving the application with a cost of \$1,109,947.

Public Comment

David Fleming, on behalf of the New York State Association of Cemeteries, noted that NYSAC had participated in discussions concerning rule making and hoped this would continue before publication.

Motion made, seconded, and unanimously adopted to enter executive session for potential litigation.

Motion made, seconded, and unanimously adopted to exit executive session.

After exiting executive session, the Board reported that a motion was made, seconded, and unanimously adopted to approve a proposed penalty of nine failures to comply totaling \$9,000 on Mount Olivet Cemetery in Queens County.

Motion made, seconded, and unanimously adopted to adjourn the meeting at 11:36a.m.

The next Board meeting is scheduled for May 11, 2021 at 10:30 AM, (presumably) via Webex.